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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/647,125 | 08/25/2003 | Byoung-Woo Cho | 1701.1002 | 9836 |
| 21171 | 7590 | 02/27/2007 | EXAMINER | |
| STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005 | | | MORAN, KATHERINE M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3765 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 02/27/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| Office Action Summary | Application No. | Applicant(s) |
|------------------------------|------------------------|---------------------|
| | 10/647,125 | CHO, BYOUNG-WOO |
| Examiner | Art Unit | |
| Katherine Moran | 3765 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11/2, 11/22/06.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 10 is/are allowed.

6) Claim(s) 1-9 and 11-21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 1/16/04, 11/22/06 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

DETAILED ACTION

Response to Amendment

Applicant's responses of 11/2/06 (non-compliant amendment) and 11/22/06 have been received. Applicant amended claims 9 and 13-16, submitted amendments to the specification, and also submitted a new drawing sheet for Figure 9. Claims 1-21 are pending.

Drawings

1. The drawings were received on 11/2 and 11/22/06. These drawings are acceptable.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 2 recites the bottom edge "in contact" with the crown and in tension. However, the specification recites that the bottom edge is only in tension as a result of the stitching of the bottom edge to the crown. Thus, "in contact" is an

attempt to broaden the relationship between the bottom edge and the crown. For example, there is no tension present if the bottom edge and the crown are merely touching or "in contact". Without further explanation of the type or degree of "contact", it is unclear what structural relationship produces tension in the front part of the headband.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 6, 7, 11, 12, 14-16, 18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (U.S. 1,892,515). Lee discloses the invention as claimed. Lee teaches headgear comprising a cap having a crown/sunshield 11 and visor 11b, and a headband attached to the crown and comprising a front part 12 formed of stretchable material and a rear part 10 formed of a non-stretchable material. The front part of the headband comprises a bottom edge attached to the crown in tension by stitching 13, with the front part extending circumferentially in the crown along the bottom to edges and beyond edges of the visor. The front part of the headband is stretched and sewn to the crown along a bottom peripheral edge of the crown and a bottom edge of the front part as shown in Figures 2 and 4. The crown is a fixed size in that the

crown's size does not change. The method steps of claims 18 and 21 are inherent in the structure as taught by Lee.

6. Claims 1-5, 9,11-16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Park (U.S. 6,052,831). Park discloses the invention as claimed. Park discloses the invention as claimed. Park teaches headgear comprising a cap having a crown 1 and visor 2, and a headband attached to the crown. The headband comprises a front part 7 formed of stretchable material and a rear part formed of a non-stretchable material 3. The front part of the headband comprises a bottom edge attached to the crown in tension by stitching as shown in Figure 3, with the front part extending circumferentially in the crown along the bottom to edges and beyond edges of the visor, to the same degree shown and disclosed by the present invention. The front part of the headband is stretched and sewn to the crown along a bottom peripheral edge of the crown and a bottom edge of the front part as shown in Figure 3. The front part of the headband inclines toward a center of the crown away from a crown side wall.

7. Claims 1, 2, 6-8, 11, 12, and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kronenberger (U.S. 5,983,398). Kronenberger discloses the invention as claimed. Kronenberger teaches headgear comprising a cap 10 having a fixed size crown/sunshield 12 and an elastic visor 14, and a headband attached to the crown and comprising a front part 38 formed of stretchable material and a rear part 58, behind the front part in a circumferential direction of the headband, formed of a non-stretchable material. It is noted that depending upon which direction the cap is viewed from, either opposing portion of the cap could define the "front" or the "rear" since claim 1 does not

define the front and rear parts in relation to the visor. The front part 38 comprises a bottom edge in contact with the crown and in tension since the bottom edge is stitched at 48 to the crown portion 20. The front part of the headband is stretched and sewn to the crown along a bottom peripheral edge of the crown and a bottom edge of the front part. The term "stretched" is not given patentable weight in interpreting an apparatus claim, since it recites a process. The front part is capable of being stretched. The visor includes a bill portion extending outside the crown as shown in the drawings and an extended portion 66 extending into the crown. Claims 18-21 recite a method of making a headgear which is taught by Kronenberger.

Response to Arguments

8. Applicant's arguments filed 11/2 and 11/22/06 have been fully considered. The objection to claim 3 is withdrawn in view of Applicant's remarks. With regard to the 35 USC 112, 1st par. Rejection, Applicant states that the Examiner has acknowledged that the bottom edge is stitched to the crown. While this "stitched" limitation is disclosed in the specification, it is not recited in either of claim 2, or the independent claim 1. Accordingly, this recitation constitutes new matter. Applicant also argues that the Examiner's interpretation of the "headband comprising a front partand a rear part behind the front part in a circumferential direction of the headband..." is incorrect since the prior art doesn't teach that the paths of the two elements (front and rear parts) intersect, and therefore are not disposed relative to each other in the circumferential direction. It is noted that the claim does not recite any type of structural relationship

between the ends of the respective front and rear parts and also does not recite a structural intersection of the front and rear parts. The claim recites a rear part behind the front part in a circumferential direction. At a given point along a circumferential path, Park's rear part 3 is behind the front part 7.

Allowable Subject Matter

9. Claim 10 is allowed.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (571) 272-4983. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

February 16, 2007



Katherine Moran

Primary Examiner, AU 3765